Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KURT LOTSCH

Appeal No. 2000-0582
Application 08/851,017

ON BRIEF

Before STAAB, MCQUADE, and BAHR, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Kurt Lotsch originally took this appeal from the final rejection of claims 1 through 3 and 7 through 9. Upon reconsideration, the examiner has withdrawn the rejection of claim 9 which now stands objected to as depending from a rejected base claim (see page 2 in the examiner's answer, Paper No. 12). Thus, the appeal as to claim 9 is hereby dismissed, leaving for review the standing rejections of claims 1 through 3, 7 and 8. Claims 4 through 6, the only

other claims pending in the application, stand objected to along with claim 9 as depending from a rejected base claim.

THE INVENTION

The subject matter on appeal relates to "a method and a device for laterally aligning a sheet, more particularly, by an axially displaceable sheet gripper device on a cylinder or a drum of a sheet-processing machine, having a control roller and a cam disk cooperating with the control roller at an end face" (specification, page 1). Claims 1 and 3 are illustrative and read as follows:

> 1. A method for laterally aligning a sheet in a sheet-processing machine, the sheet being retained by sheet grippers which are displaced axially on a common carriage with respect to an alignment cylinder, which comprises fixing the carriage when it reaches a predetermined desired position by exerting a braking force on the carriage.
>
> 3. A device for laterally aligning a sheet by an axially displaceable sheet gripper device on a cylinder or a drum of a sheet-processing machine, having a control roller and a cam disk having an end face cooperating with the control roller at the end face, comprising a carriage to which the sheet gripper device is fastened, and a braking system by which said carriage is fixable with respect to the alignment cylinder.

THE PRIOR ART

The references relied upon by the examiner as evidence of anticipation and obviousness are:

Wieland	4,833,989	May 30, 1989
Malachowski et al. (Malachowski)	5,219,159	Jun. 15, 1993

THE REJECTIONS

Claims 1, 3 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Wieland.

Claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wieland in view of Malachowski.

Attention is directed to the appellant's main and reply briefs (Paper Nos. 11 and 13) and to the examiner's final rejection and answer (Paper Nos. 9 and 12) for the respective positions of the appellant and the examiner with regard to the merits of these rejections.

DISCUSSION

I. The 35 U.S.C. 102(b) rejection of claims 1, 3 and 8

Wieland discloses a method and apparatus for laterally aligning a sheet in a rotary printing machine. The apparatus includes a sheet transfer drum 1 having a groove 7 in its peripheral surface, an axially shiftable carriage 8 disposed in the groove, a plurality of gripper fingers 12 arrayed on the carriage, a control roller 19 mounted on one end of the carriage, a control cam 22 located adjacent the

control roller, springs 20 for urging the control roller into rolling contact with the control cam, a stepper or servo motor 37, 54 operatively connected to the control cam for adjusting
its orientation relative to the control roller, and a measuring head 44 for sensing the actual position of a sheet side edge. In use (see column 5, line 27 et seq.), a sheet is fed to sheet transfer drum 1 and gripped by fingers 12 on carriage 8, the actual position of the sheet side edge is sensed by measuring head 44, the actual position is compared with a desired position and any difference between the two is utilized to control the operation of stepper or servo motor 37, 54 to adjust the orientation of control cam 22 so as to cause carriage 8 to translate the sheet gripped by fingers 12 to the desired position.

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between the claimed invention

and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

As framed by the appellant, the dispositive issue with respect to the 35 U.S.C. § 102(b) rejection is whether Wieland meets the "braking" limitations in independent claims 1 and 3. As indicated above, method claim 1 requires the step of "fixing the carriage when it reaches a predetermined desired position by exerting a braking force on the carriage," and apparatus or device claim 3 requires "a braking system by which said carriage is fixable with respect to the alignment cylinder." According to the examiner (see page 2 in the final rejection and page 4 in the answer), these limitations read on Wieland's stepper or servo motor 37, 54 and its manner of use.

The examiner's position here is not sound. Although Wieland's carriage 8 apparently stops, and is fixed in position with respect to cylinder 1, upon de-energization of stepper or servo motor 37, 54, this alone does not make the

motor a "brake" under any ordinary and accustomed definition of this term. For example, Webster's New Collegiate Dictionary (G. & C. Merriam Co. 1977) defines "brake" as meaning "something used to slow down or stop movement or activity." The mere fact that Wieland's motor ceases furnishing motive power to the carriage 8 does not necessarily mean that it acts to slow down or stop the movement of the carriage. While other motive devices might perform a braking action when de-energized, Wieland does not give any indication that motor 37, 54 (or its associated transmission means) does. Thus, the examiner's finding that the "braking" limitations in claims 1 and 3 read on Wieland's motor 37, 54 is inconsistent with the manner in which these limitations and the Wieland reference would be understood by a person of ordinary skill in the art. The examiner's finding is also inconsistent with the appellant's specification, in light of which the claims must be read, which draws a distinction between a brake and the type of motor disclosed by Wieland by stating "[i]n an advantageous manner, braking of the lateral movement of the gripper

carriage can be performed significantly faster than driving to a desired position by an adjusting motor" (page 4). Hence, Wieland's motor 37, 54 and its method of use do not meet the "braking" limitations in claims 1 and 3. Since Wieland does not disclose any other structure or steps responding to these limitations, the examiner's determination that this reference discloses each and every element of the invention set forth in claims 1 and 3, and in claim 8 which depends from claim 3, is not well taken.

Accordingly, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of claims 1, 3 and 8 as being anticipated by Wieland.

II. The 35 U.S.C. § 103(a) rejection of claims 2 and 7

Claims 2 and 7 depend from claims 1 and 3, respectively, and pertain to a sensor or detection system for identifying a desired sheet alignment position. In short, Malachowski's disclosure of a sheet alignment device having such a sensor or detector system fails to overcome

the above noted deficiencies of Wieland with respect to the "braking" limitations in parent claims 1 and 3.

Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 2 and 7 as being unpatentable over Wieland in view of Malachowski.

SUMMARY

The decision of the examiner to reject claims 1 through 3, 7 and 8 is reversed.

REVERSED

LAWRENCE J. STAAB Administrative Patent Judge	)
JOHN P. MCQUADE Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
JENNIFER D. BAHR Administrative Patent Judge	)

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